

employee plans news

PROTECTING RETIREMENT BENEFITS THROUGH EDUCATING CUSTOMERS

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Tax Exempt and Government
Entities Division

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Calendar of EP Benefits Conferences

TE/GE Commissioner Speaks at Benefits Conference of the South

Steven T. Miller, IRS Tax Exempt and Government Entities Commissioner, spoke before the inaugural Benefits Conference of the South on March 20, 2006 and the following excerpts reflect key points about the IRS role, shift in demographics and efforts to increase IRS enforcement presences in the EP community:

*First, I want to talk about the **IRS role and whether it is changing**. Second, I want to explain why we continue our drive to **re-balance our compliance message—to increase our enforcement presence in the EP community**.*

... We live in a world in which more of us are saving less and will need our meager savings shortly. We are older and less frugal than ever. In this aging world what is the purpose of IRS Employee Plans? Simple enough to talk about our tradition. EP has traditionally promoted compliance by providing guidance on plan requirements, offering means for plans to become qualified or to correct deficiencies, and by maintaining an enforcement program to identify and resolve compliance risks. We were and are about ensuring that the taxpayer gets their money's worth out of the \$103 billion we taxpayers forgo annually to fund and maintain tax-free plans.

Employee Plans ensures that this expenditure is consistent with congressional intent by ensuring that (1) contributions are within legislated limits and are reported accurately, (2) contributions are appropriately applied to provide retirement benefits for participants and (3) assets remain in a retirement solution.

*And it seems to me that even with the worsening situation our purpose remains generally what it was. But only generally. And I have **asked senior leadership to consider what changes the demographic shifts will require of us**.*

*As we approach our responsibilities, the IRS strives to do so with a balanced program providing both service to taxpayers and enforcement of the law. Our working equation at the IRS is **Service + Enforcement = Compliance**. Not service or enforcement; we need both. We have lived by this in the EP area. We put out more published guidance than almost any other part of the service, we were innovative in putting together programs in which plans self correct—with the help of a cadre of well-trained and ethical practitioners. We have a vigorous education program and virtually all plans come into contact with us in the determination letter arena. We in EP know that compliance begins with service.*

*But we have seen the need for enforcement as well. It's clear that most employee plans and practitioners play by the rules. But it's also clear that we need to **invigorate our enforcement program** for a number of reasons. **First, the community ...is... immense and important**. **Second**, we have found **abusive transactions** in the EP community. Evidence of this is readily apparent when you look through the details of the "listed transactions." Listed transactions are tax schemes the IRS has formally designated as abusive.*

*Some within the benefits community have played an unfortunate role – certain municipal pension plans acting as accommodation parties, sub-S ESOPs, 401(k) plans, and 412(i) plans all have been involved in listed transactions. The **third** and final rationale for our decision to re-invigorate the EP enforcement program is that we have **been away from this work for too long**.*

That, in a nutshell, is why we needed to change direction in EP. The benefits community is big, it's important, and it needs attention. Abuse, often abetted by disregard of professional standards, has appeared in our midst. And our enforcement capabilities were beginning to atrophy.

*So what have we done? I'll talk about **four areas where change is underway in Employee Plans.***

***First**, let's talk about our work in the area of abusive transactions. ...To bring abusive transactions into the sunlight and clean them up, the Service opened the Abusive Transaction Settlement Initiative late last October. We created a short window during which taxpayers involved in abusive transactions could come forward and work out a settlement.The Initiative window closed on January 23. Many taxpayers involved in one of these four transactions submitted settlement applications, and we are working with them. Now we are turning, with some vigor, to those who had the opportunity to come in, but did not...*

*The **second** area of change I want to discuss with you involves **resources**. Thanks to decisions made at the very top of the IRS, we received a generous budget increase last year and we used a healthy part of it to significantly bolster our examination staff. As a result, we committed ourselves to rebuilding our examination capability, and we already have made an impressive start.*

*The **third** area of change involves **infrastructure and business practice** changes. We now have an EP Compliance Unit. The goal of this unit is to expand our compliance presence with a "correspondence contact" approach. Some of their projects include the following: an evaluation of over 700 Forms 5500 to determine the impact of fraud loss. 77% of the replies included corrective information about their 5500s. The EPCU also contacted plans reporting pension under funding and followed up on voluntary compliance agreements. As we move forward, and fully consistent with my prior comments on stretching our mission in this time of changing demographics, I have asked the group to be even more creative and to do some work in areas we have traditionally shied away from. These include a review of plan participation, for example, in 403(b) plans. Are they including all they should? I have also asked them to work on a compliance project to see how mass marketed plans are doing post adoption. The EPCU will allow us the flexibility to design and execute compliance projects to accommodate a shift of mission. I promise that things will get even more interesting.*

We have other process changes that will help us re-balance towards enforcement. Since January 1, our agents have been applying the focused examination concept to all newly started examinations. The focused exam represents a change in audit philosophy for us. We also have entered the field of data mining. This is something of a new experience for us but should lead to improved case selection and trend identification.

*The **last example of how we are changing to enhance enforcement** that I want to address today is **professional responsibility**. One of the Service's four key enforcement objectives is to ensure that attorneys, accountants and other tax practitioners adhere to professional standards and follow the law. This objective seems self-evident. It should not be a matter of pride to us as professionals that things got to the point in our professions that this objective had to be expressed this way. Circular 230 does continue to contain an exclusion from some of the tax shelter opinion rules for pension opinions. But lawyers, CPAs and actuaries who practice before us are still bound to the high standards contained in other parts of Circular 230 that apply to tax advice and practice. Please understand that although this is a subject that must be addressed, I fully share the view that the EP community—with very, very few exceptions — does outstanding work to keep plans on the straight and narrow. But last year, EP made a number of referrals to the Office of Professional Responsibility, the IRS office that has responsibility for enforcing the practice rules. In a number of cases, sanctions were imposed, including one 3-year suspension. The continuing challenge for all of us — for you as individual practitioners, and for me as Commissioner, TE/GE — is to ensure that those who do not follow reasonable practices are identified and appropriately sanctioned.*

In closing, though, I want to reiterate that there is much that should not change within our Employee Plans function. TE/GE and EP are unique within the IRS. And we are going to retain that which makes us unique: That we protect the public interest; that we are innovative; that we have a close and productive relationship with our customers; and that we continue to value customer insight, partnership and education.

For a complete transcript of Mr. Miller's remarks, click [here](#). For more information on the EP Examinations/Enforcement Program, visit the [Retirement Plans Community web page](#). •

EP Connections: Interview with Betty McClernan

Betty McClernan is the new EP Examinations Programs and Review Area Manager. Betty has been with the IRS since 1978 when she was hired as an EP agent in Baltimore. She has held numerous EP agent and managerial positions including classifier, reviewer, group manager and branch chief. With the creation of TE/GE, Betty was selected as the EO Pacific Coast Area Manager in Los Angeles and also served short assignments as the acting EO Examinations Director in Dallas and the EO Compliance Strategies and Data Analysis Area Manager in DC. Betty graduated from the University of Baltimore with an accounting degree and she also holds a Certification of Employee Benefits Specialist.

What type of activities does your office do as part of the EP Examinations Program?

The EP Examinations Programs and Review (EPR) staff gets examination work into the hands of the EP Examinations groups. We select cases, establish cases on our databases and assign cases to the various groups. Then there are the activities around “closing out” that work, like reviewing, processing the closing actions, and sending closed cases to the service centers. I don’t think people understand or appreciate the activities the EPR staff does on behalf of EP Examinations in regard to actions for the other levels within our organization. We prepare briefings and reports on EP Examinations’ accomplishments and future actions for use by EP, TE/GE, and the IRS Commissioner. We also coordinate activities with the DOL and PBGC.

How does the role of your office relate to the role of the EP Exams field offices?

All of us – EPR and the five area offices – are interconnected and dependent on each other to be successful at fulfilling our mission. I like to think of our role and that of the field offices as a series of circles. And by definition a circle has no beginning or end, so when you step on to any point on the circle there has been “stuff” going on before that point and “stuff” going on after that point. The purpose of all that “stuff” should be to learn from what has come before, apply that knowledge to what comes after, and expand the next circle to a larger circumference. This process needs to play out over and over again in order for EP Exams to be proactive in addressing the critical issues that impact our customer base.

How is your office involved in achieving the EP Examinations Critical FewPoints (as noted in articles, “Critical FewPoints...by Michael Julianelle”)?

Michael’s Critical FewPoints articles provide insight to the issues EP Exams is working on to address areas of non-compliance within our retirement community. As such, these concepts need to be developed into actual action points. These action points, in my mind, are the projects which get established and built into the EP Exams work plan. Projects have three distinctive phases:

- Development – Identifying the customer segment, recommending techniques and getting the right amount of resources;
- Operation – Selecting and assigning the returns and conducting the examinations; and
- Analysis – What did we learn, how do we apply that knowledge to refine our selection process, and are there other ways to address the noncompliance?

EPR has staff involved in all the phases. It’s in the circling back process that information is developed for identifying the next list of Critical FewPoints.

Besides the Critical FewPoints, what are some of the other initiatives or projects that your office is working on as part of this year’s EP Work Plan?

For EPR staff, the major activities remaining in this year’s work plan are the selection and assignment of returns for each of the critical initiatives, monitoring our progress, and analyzing the results for identification of future projects and/or adjustments to current projects. While we are reporting on the current accomplishments, we should always be thinking of the future impact. We are already beginning work on the FY 07 work plan. A couple of ongoing items in the development phase are projects involving DOL referrals on late payment of 401(k) deferrals and indications of non-compliance on Forms 5500-EZ.

Additional Filing Relief for Katrina Victims

In [IR-2006-30](#), the IRS has postponed taxpayer filing and payment deadlines for affected taxpayers hit hardest by Hurricane Katrina.

Individual and business taxpayers in the most severely damaged areas of Louisiana and Mississippi automatically have through Aug. 28, 2006, to file returns and make certain tax payments that had a due date or extended due date on or after Aug. 29, 2005, and on or before Aug. 28, 2006. In addition, the failure to deposit penalty will be waived for taxpayers in these areas who are unable to make their deposits during this time period.

For more information on the relief and other disaster information, go to the [Retirement Plans Community web page](#) or www.irs.gov.

EP Connections *continued from page 3*

I have spent a lot of time addressing what I would say are actions directly related to the identification and selection of return projects involving Program Planning and Classification (and this only touches upon a small but critical portion of their functions). I don't want to overlook the great and important work of the other EPR functions. So let me do some brief highlights:

Mandatory Review

- The S Corp ESOP Global Settlement Initiative (GSI).
- Development – with Appeals – of a fast-track settlement program.

Special Review

- Fraud communication action plan and coordination with Criminal Investigation on fraud issues.
- Individual feedback to agents on general reviews.

Special Support and Support Processing

- Case-building research on the GSI submissions and abusive tax cases.
- Assistance with the mail-out of letters to SIMPLE IRA plan sponsors on the EGTRRA Relief Initiative.

New User Fees Reminder

The IRS is now accepting applications for determination letters for Cycle A defined benefit and defined contribution individually designed plans. The submission period for Cycle A plans began on February 1, 2006.

Sponsors of Cycle A plans have a year to make submissions but **keep in mind that user fees for submitting determination letters will increase on July 1, 2006**. Applications postmarked on or after July 1, 2006, will be subject to the new user fee schedule. A summary of the user fee changes with references to official guidance is contained in [New User Fee Schedule for 2006](#).

For further information on the program for individually designed plans, including how off-cycle filings affect reliance, see [Rev. Proc. 2005-66](#) (describing the 5-year staggered system). [Rev. Proc. 2006-6](#) contains procedures on the determination letter program. The [Determination Letter Resource Guide](#) (currently being updated), describes application procedures, contains links to forms and provides other helpful information. •

EP Team Audit (EPTA) National Program

- Development of guidance to practitioners and taxpayers of what plan records need to be maintained.
- Refinement of the identification of the EPTA universe.

It seems that your office has a very broad level of responsibilities that touches all parts of the EP Examinations Program?

We do. It's an awesome task but I look forward to the challenge and the opportunity to work with so many individuals all striving to do their best to address our mission.

How then are new initiatives or projects coordinated by your office to ensure that all EP Examinations field offices work together?

This is an area I would like to see us improve. There needs to be on-going communication and involvement by each office from the very start to create the "We are all in this together" atmosphere. EPR staff is looking at ways to realign our work, involve all functions within EPR, network with the area offices, and apply some structure to the development and assessment of new initiatives and projects. For example, we're putting together an action plan that requires timely – and key – inputs from all of the area offices. No one office – except, of course, Michael Julianelle's – has all the answers.

And let's close with what you like to do outside of the office?

Traveling: As a family (husband and two now-grown children but still living at home while one completes college and the other completes law school), we have a goal to visit every state and national park in this great country. We have a map in our family room and after a vacation we have a formal ceremony to place another state magnet on it. So far, as a family, we have 38 states. I personally have just four left - Alaska, North Dakota, Iowa and Wisconsin. There are currently 51 National Parks and 386 Park Service units including monuments, memorials, seashores, etc. and new ones are added from time-to-time. We still have a long way to go with only having completed 19 National Parks and 144 other units. This year, we plan to add the three national parks in Washington state. And if this weren't enough, don't get me started on my obsessions with holidays and Disney! •

Critical FewPoints...by Michael Julianelle (Director, EP Examinations)

Hello again. I hope everyone's 2006 is off to a great start, both professionally and personally. As always, I welcome suggestions of topics you would like me to discuss in these pages. Please e-mail your suggestions to RetirementPlansComments@irs.gov. I will do my best to cover your ideas or concerns in future articles.

Enrolled Retirement Plan Agent (ERPA) Update

Developments are underway to allow a new type of practitioner – an Enrolled Retirement Plan Agent (ERPA) – to practice before the IRS. Last June, the Advisory Committee on Tax Exempt and Government Entities (ACT) recommended that individuals who provide technical services to plan sponsors should be authorized to practice before the IRS, provided that they demonstrate the competency to do so. ACT proposed limiting the practice of ERPAs to filing applications for determination letters, Forms 5500, employee plan audits, and negotiating with the IRS in voluntary compliance matters. See [Establishing the Enrolled Retirement Plan Agent Under Circular 230](#), ACT (June 2005).

On February 3, 2006, the IRS published [proposed amendments to Circular 230](#), governing practice before the IRS. The preamble of these proposed amendments requested comments on the ERPA proposal. These comments are due by April 7, 2006. All ERPA-designation plans are contingent upon successful inclusion of the ERPA program in the finalized Circular 230.

EP is interested in gaining experience in the area of test development and administration, so on February, 21, 2006, we posted a [Request for Information for ERPA Examination](#). This Request for Information describes the ERPA program and asks for comment and answers to specific questions relating to the ERPA test development and administration. Responses are due by April 17. •

For this edition, I'll focus on some of the ways we are attempting to have examinations of retirement plans run much smoother, or avoiding the examination at all.

When I go to various conferences to speak about our efforts in EP Examinations, I get questions from the audience about the number of audits my agents can perform over time and if I'm concerned about not being able to audit more returns. My answer is: I would rather hire more employees who could provide an in-depth analysis of the return before it is considered for an examination. Having the resources to perform that function and focusing on taxpayer non-compliance based on analysis and historical information/data would lead to better case selection and better use of my resources, i.e., the agents. I don't want to burden taxpayers with an examination if there is nothing worth pursuing and I don't wish to waste my resources in performing those types of audits. I want my agents to be examining returns that need to be examined. Of course, because I also believe in a vigorous enforcement program, I would take those additional resources and focus them on non-compliant areas.

One way of saving both you and me time and resources is the establishment of the Employee Plans Compliance Unit (EPCU). EPCU is staffed with agents, analysts, statisticians and economists who will contact you or your clients to address items of potential non-compliance. A simple verification or question answered in lieu of an examination of the return will save you **and** me money and resources. Check out the [February 9 Special Edition](#) for an article about EPCU if you want to know more about their operation. Also, EPCU has an email box (te/ge.epcu@irs.gov) and we encourage you to drop us a

line if you have a suggestion on areas you think are potentially non-compliant.

Another project currently in development involves the third party administrators and benefit consultants who many employers use to maintain and administer their plans. As of now, many of these folks are not authorized to practice before the IRS. ACT – the Advisory Committee on TE/GE – would like to make changes to this prohibition.

ACT wants to establish a mechanism for increasing the accountability of these groups that assist in the day-to-day running of plans. The ACT proposal recommends the establishment of the Enrolled Retirement Plan Agent (ERPA) category under Circular 230 to allow these currently “unenrolled” preparers limited practice before the IRS in the employee plans arena. The examination, enrollment, renewal procedures, and continuing education requirements of the enrolled agents currently allowed to practice and ERPAs will mirror each other to the extent possible. However, the scope of an ERPA to practice before the IRS will be limited to certain specific sections of the Code relating to retirement plan matters. The ACT proposal on ERPAs is included in the text of the [proposed Circular 230 rules](#). This new program is in development, but I thought it was worth sharing with you in this column.

You can access information on EP's examinations/enforcement results at www.irs.gov/ep.

Thank you for reading and be well. •



DOL Corner

The Department of Labor's Employee Benefits Security Administration (DOL/EBSA) announced new guidance, relief and tools to assist plan sponsors and practitioners in complying with ERISA. You can subscribe to DOL/EBSA's [home page](#) as well as the [Compliance Assistance page](#) for notice of updates posted on the web site.

Extended Filing Deadline for Annual Report Filers in the Gulf Coast

On February 27, 2006, DOL/EBSA announced an extension of the deadline for filing the Form 5500 series annual returns/reports to August 28, 2006. This additional reporting relief is granted to filers in 31 parishes in Louisiana, 46 counties in Mississippi, and 11 counties in Alabama.

On September 28, 2005, the agency announced an extended deadline of February 28, 2006, for those Form 5500 series filers affected by Hurricane Katrina. After closely monitoring the effects of subsequent flooding, DOL/EBSA, the IRS and the PBGC have determined that filers in certain parishes and counties require additional time to prepare and file complete and accurate Form 5500 reports.

The new extension for reporting applies to plan administrators, employers and other entities affected by Hurricane Katrina and located in one or more parishes or counties listed in IRS News Release [IR-2006-30](#) dated February 17, 2006. The extension also applies to firms located outside the affected areas who are unable to obtain the necessary information from service providers, banks, or insurance companies whose operations were located in the areas listed in IR-2006-30 and affected by Hurricane Katrina.

For more information, see the DOL/EBSA [announcement](#).

Updated Exemptions for Transactions with Financial Institutions and Insurers

On February 3, 2006, DOL/EBSA published in the *Federal Register* amendments to two existing class exemptions that will permit plans to engage in securities and other transactions with a greater number of financial institutions and insurers, if certain conditions are met. ERISA generally prohibits plans from entering into transactions with plan fiduciaries and other related parties unless an exemption applies.

Under the amendments to Prohibited Transaction Exemption (PTE) 75-1, a plan may engage in certain transactions with broker-dealers, reporting dealers and banks that are plan fiduciaries as long as the institutions and their affiliates do not have investment authority over or provide investment advice with regard to the plan's assets involved in the transaction. DOL/EBSA also granted similar relief under PTE 84-24 for insurance agents and brokers, pension consultants and mutual fund principal underwriters to engage in transactions involving sales of insurance and mutual fund products and to receive related commissions.

The revised exemptions address consolidation in the financial services industry that has resulted in greater numbers of affiliations between financial institutions. One protection afforded by the exemptions is that the terms of the transactions are required to be as favorable to the plans as an arm's length transaction with an unrelated party would be.

The [amendments to PTE 75-1](#) are retroactively effective to January 1, 1975. The [amendments to PTE 84-24](#) are effective on the date of the publication in the *Federal Register*.

Multiemployer Pension Plan Funding Notices

On January 11, 2006, DOL/EBSA published in the *Federal Register* final rules requiring administrators of multiemployer pension plans to furnish annually a notice on the funding status of the plans under provisions of the Pension Funding Equity Act of 2004.

How to Subscribe to Employee Plans News

The *Employee Plans News* is issued only through IRS e-mail. For your free subscription, please go to the [Retirement Plans Community web page](#) and subscribe online by selecting "Newsletters" under "Retirement Plans Community Topics." All editions of the *Employee Plans News* are archived there.

For your convenience, we have included Internet links to referenced materials throughout the *Employee Plans News*. These links are identified by blue and underlined text.

DOL Corner *continued from page 6*

The regulation provides that a notice be sent annually to multiemployer plan participants, beneficiaries, labor organizations, contributing employers and the PBGC. The notice must include basic financial information about the multiemployer plan, such as a statement as to whether or not the plan is 100% funded. The notice also must include a comparison of the plan's assets to benefit payments, a description of the law governing insolvent multiemployer plans and the benefits guaranteed under the PBGC's multiemployer program. The regulation contains a model notice to reduce compliance burdens on plans and their administrators.

The [final regulation](#) is available on [DOL/EBSA's web site](#) and the [model notice](#) is as well.

Guidance on Fiduciary Responsibilities Regarding Advice and other Services Provided Directly to Participants

On December 7, 2005, DOL/EBSA issued [Advisory Opinion 2005-23A](#) providing guidance on whether a financial consultant hired by a participant in a 404(c) plan to provide investment advice or management is a fiduciary and provides investment advice within the meaning of section 3(21) of ERISA when he advises the participant to take a withdrawal in order to invest the assets in an investment not available under the plan. The guidance also addresses whether the advisor engages in a prohibited transaction if the recommended investment pays an additional fee to the advisor. •



PBGC Insights

New Premium Rates Signed into Law

The Deficit Reduction Act of 2005, signed into law on February 8, 2006, increased the per-participant flat-rate premium to \$30 for single-employer plans and to \$8 for multiemployer plans, effective for plan years beginning on or after January 1, 2006. *(At press time, a House/Senate conference committee was considering comprehensive pension reform legislation.)*

Premium filings for the 2006 plan year must be paid at the new rate. If a large plan submitted its first 2006 filing at the old rate (\$19 for single-employer plans and \$2.60 for multiemployer plans), an amended filing must be submitted to bring the payment up to the new \$30 or \$8 level. Filers who submit a paper 2006 Form 1-ES that shows the old premium rates may simply cross out the old rate and write in the new rate. An updated Form 1-ES can be downloaded from [PBGC's web site](#). [Final filing forms and instructions](#) that reflect the new rates are also available on the web site.

For large plans (those with 500 or more participants for the prior plan year), the due date for the first premium filing is the last day of the second full calendar month in the plan year (February 28 for calendar-year plans). For small plans, the due date is the fifteenth day of the tenth full calendar month in the plan year (October 15th for calendar-year plans). The change in the premium rates does not extend premium filing due dates. Filers should submit premium filings and payments (including any amendments) by the due date to avoid interest and penalty. PBGC may waive penalties in appropriate circumstances.

PBGC encourages filers to submit premium filings (whether original or amended) through [My Plan Administration Account \(My PAA\)](#), the agency's secure application that enables pension plan professionals to electronically submit premium filings and payments to PBGC.

Update on Electronic Filing of PBGC Premiums

PBGC expects to begin mandatory electronic filing of premiums during 2006. For plans with 500 or more participants for the prior plan year, the requirement to file electronically via PBGC's e-filing application, [My PAA](#), is expected to apply to filings that are made on and after July 1, 2006, for 2006 and future plan years. Electronic filing is expected to be required for all plans beginning with the 2007 plan year. The effective date and applicability will not be definite until PBGC publishes the final rule in the *Federal Register*, which the agency anticipates doing by Spring 2006. The final rule on mandatory electronic filing will be posted on [PBGC's web site](#).

Premium e-filing via My PAA has many advantages. It streamlines the premium filing process for users and contributes to making the processing of premium filings faster and more accurate. It has the potential to help reduce the number of erroneous bills, to speed up refund processing, and in general to improve premium collection functions while enhancing service to premium payers. Recent enhancements to My PAA provide the following premium e-filing options to better meet the varying business requirements of filers:

What's New at the PBGC Web Site?

A "What's New" feature was recently added to the [Practitioners page](#) to highlight recent developments and information of interest to pension plan administrators and other pension practitioners. To view the feature, click on the tab labeled "Practitioners" at the top of [PBGC's home page](#), then click on the "What's New" link in the upper right corner of the Practitioners page. •

- **Filing Option 1:** Use the My PAA data entry and editing screens to create and submit premium filings (for plan years 2004 and later).
- **Filing Option 2:** Use My PAA to upload premium filings created with private-sector software that has been updated to meet PBGC's requirements (for plan years 2005 and later).
- **Filing Option 3:** Use My PAA to import premium filings created with private-sector software that has been updated to meet PBGC's requirements (for plan years 2006 and later).
- **Payment Options Available for All Filing Options:** All e-filings (other than a batch of filings that are uploaded) may be paid online using My PAA (ACH, Internet check, or credit card) or paid outside of the My PAA application (paper check or electronic transfer via ACH or Fed wire). If a batch of filings is uploaded, all payments must be made outside of My PAA.

If you are unsure whether your software is updated to support these e-filing options, please contact your software vendor/developer. For detailed information or to set up a My PAA account, click [here](#) or go to [PBGC's web site](#) and click on the link "Online Premium Filing (My PAA)" on the Practitioners page.

Waiver of 4010 Reporting

On January 12, 2006, PBGC issued [Technical Update 06-1](#), which waives reporting under ERISA section 4010 for certain employers. Under ERISA section 4010, controlled groups generally must provide annual financial and actuarial reports to the PBGC if the aggregate unfunded vested benefits in plans maintained by the controlled group exceed \$50 million.

As described in Technical Update 06-1, in certain circumstances PBGC is waiving ERISA section 4010 reporting for filings for information years ending on or after December 31, 2005, and on or before June 30, 2006. The waiver applies if no filing would have been required had the Pension Funding Equity Act of 2004 been extended for six months. The [applicable interest rate](#) for determining if this waiver applies is posted on [PBGC's web site](#). Technical Update 06-1 has no effect on the determination of premiums or on any other reporting requirements.

For questions about Technical Update 06-1, contact [James L. Beller, Jr.](#) of the Legislative and Regulatory Department: (202) 326-4000, ext. 3865 or [Amy Viener](#) of the Policy, Research and Analysis Department: (202) 326-4000, ext. 3919. Questions about specific section 4010 filings should be directed to [Ruth Williams](#) of the Department of Insurance Supervision and Compliance: (202) 326-4000, ext. 6744.

Interest Rate Used to Determine Variable-Rate Premiums

In general, the required interest rate to be used for determining a plan's variable-rate premium is 85 percent of the annual yield on 30-year Treasury securities for the month preceding the beginning of the plan year for which premiums are being paid. The Pension Funding Equity Act of 2004 ("PFEA") temporarily changed this rule for plan years beginning in 2004 or 2005. For those plan years, the interest rate used to determine a plan's variable-rate premium is 85 percent of the annual rate of interest determined by the Secretary of the Treasury on amounts invested conservatively in long-term investment-grade corporate bonds. Although Congress is considering legislation that would extend the PFEA rate for another year, the required interest rate for plan years beginning on or after January 1, 2006, has reverted back to 85 percent of the annual yield on 30-year Treasury securities.

The required interest rate is updated monthly and may be found on the [Practitioners page](#). Should legislation be adopted that changes the rules for determining the required interest rate, PBGC will promptly provide guidance on its web site. •

The Corner of Forms & Pubs

Welcome back to the Corner of Forms & Pubs – the EP version of Hollywood & Vine. The information here at the Corner is brief and topics needing further details will get their own full-length articles (like the one on Form 5500 that follows on the next page).

Forms Update

As introduced in [Rev. Proc. 2005-66](#), the new **Form 8905**, *Certification of Intent to Adopt a Pre-Approved Plan*, will be released and available (online) by early April. This form is for adopters of an individually designed plan or pre-approved plan (not otherwise entitled to the six-year remedial amendment cycle) who request a conversion of their five-year remedial amendment cycle under Part III of Rev. Proc. 2005-66 to the six-year remedial amendment cycle under Part IV of the procedure.

The following forms are in the process of being updated and will be available (online) within the next few weeks:

- **Form 5310**, *Application for Determination for Terminating Plan*, and
- **Form 8717**, *User Fee for Employee Plan Determination, Opinion and Advisory Letter Request*. This revision reflects the change in user fees mandated by Rev. Proc. 2006-8.

Publications Revised

The following publications have been revised for use in preparing 2005 returns and are currently available:

- [Publication 560](#), *Retirement Plans for Small Business (SEP, SIMPLE, and Qualified Plans)*;
- [Publication 575](#), *Pension and Annuity Income*; and
- [Publication 590](#), *Individual Retirement Arrangements (IRAs)*.

All of these publications are available on the [Retirement Plans Community web page](#) by clicking on “EP Forms & Publications” under the “Retirement Plans Community Topics” section.

In addition, the **Publication 571**, *Tax-Sheltered Annuity Plans (403(b) Plans) For Employees of Public Schools and Certain Tax-Exempt Organizations* will be updated and available by mid-April.

Happy New Year!

Before we get too far into the new year, did you know that the IRS has revised its highly popular [Publication 1518](#), *2006 IRS Tax Calendar for Small Businesses and Self-Employed?* The calendar is filled with helpful hints, general tax information and a listing of the most common tax filing dates. Each month highlights a new tax tip that helps small businesses during both the tax filing season and the entire year.

Disaster-Related Material

In response to the disasters of 2005, the IRS has released the following products:

- [Form 8915](#), *Qualified Hurricane Retirement Plan Distributions and Repayments*, which will be used by taxpayers to report distributions and determine the amount included in income.
- [Publication 4492](#), *Information for Taxpayers Affected by Hurricanes Katrina, Rita, and Wilma* has been released. This new publication lists the disaster areas for each hurricane and explains which areas are eligible for administrative relief from the IRS and which areas receive special tax breaks under recently enacted provisions of the tax law. The publication provides information for individuals on how to claim unreimbursed losses, the tax-favored use of retirement savings and new rules on charitable giving.

All of these products can be ordered by calling (800) TAX-FORM (829-3676).

Can We Talk Yet?

When it comes to the preparation of the [Form 5500](#) or [Form 5500-EZ](#) and representation during an EP examination, preparers **should** complete Line 5, Preparer Information. Completion of this line will enable the preparer to act as the taxpayer's representative, but only in matters concerning that particular plan year. •

We'll Take Your Order

The IRS is now taking orders for the [2006 Small Business Resource Guide CD-ROM](#). The CD has valuable forms, instructions and publications. It also provides valuable business information from a variety of government agencies, non-profit organizations and educational institutions. The CD contains essential startup information needed by new small businesses in order to be successful. There's even material on choosing retirement plans suited for small businesses. So place your order now for this essential product. •

Form 5500: It's That Time of Year, Again

The approach of spring has always meant baseball, suntan lotion and lemonade ...and now, for the fourth consecutive year ...the mailing of the Form 5500 postcard. Back in 2003, the IRS, DOL and PBGC replaced the old forms package and began mailing out a postcard reminding filers of their reporting responsibilities. These postcards include information on how filers can request paper copies of the required forms, schedules and instructions. Hopefully, you or your clients have received their postcard from dear old Uncle Sam.

*Oh, somewhere in this tax-favored land the sun is shining bright.
Actuaries are playing somewhere, and somewhere hearts are light.
And, somewhere lawyers are laughing, and tax preparers shout,
For there is great joy in Mudville – the 5500 postcard was just mailed out.*

With its July 25, 2005 [Media Release](#), DOL/EBSA, along with the IRS and PBGC announced the release of the 2005 Form 5500. This was the earliest the form, schedules and related instructions became available and reflects the government's continued commitment to improve the Form 5500 filing process. Paper copies of the material have been available since October 2005.

The most significant changes to the form are the elimination of the Schedule T, *Qualified Pension Plan Coverage Information*; refinement of the Schedule B, *Actuarial Information*, and its instructions on the reporting of investment returns, actuarial assumptions and the summary of eligibility and benefit provisions used in valuations; and updated instructions for the Schedule A, *Insurance Information*, that reflects the latest DOL/EBSA guidance on the reporting of insurance fees and commissions.

Informational copies of the form, schedules and instructions are available for viewing on the [EFAST web site](#) and the [Retirement Plans Community web page](#) by clicking on "EP Forms & Publications."

Filers are also invited to contact the EFAST Help Line for general assistance by calling (866) 463-3278. •

Identity Theft DVD

Our friends at the Department of the Treasury have developed a DVD for consumers on how to recognize identity theft, how to protect against it, and what to do if victimized. Copies of "Identity Theft: Outsmarting the Crooks" may be ordered from the Federal Citizen Information Center (toll-free at (888) 878-3526, or from the FCIC-05B, P.O. Box 100, Pueblo, CO 81002), Order number 365NN. Supplies are limited and there is a \$2.00 shipping fee. •

Quick Hits

Welcome back to Quick Hits. Late winter was a hectic time for IRS and Treasury regulators. There are new initiatives, new guidance and new working groups. Here are some highlights:

- **Keep it SIMPLE:** There's a new relief initiative in town. EGTRRA – the law, not a 50s sci-fi movie monster – caused considerable confusion in the universe of SIMPLE IRA plan sponsors. It turns out that many SIMPLE IRA plan sponsors didn't update their plans for the provisions of EGTRRA. So to make sure that all SIMPLE IRA plans get into compliance – and, hopefully, stay there – EP is offering relief to non-compliant SIMPLE IRA plan sponsors. Hurry though: This offer expires at the end of this year. For details on the initiative and the offered relief, check out the [March 10 Special Edition](#) or go to the [Retirement Plans Community web page](#).
- **What Hath EP Roth?** In not just one but in two Special Editions – [January 12](#) and [February 9](#) – we brought you updates on Roth 401(k) and 403(b) contributions. The benefits community has been abuzz with thoughts on what the rules would be on these new accounts. Take a look at the two Special Editions and find out what all the fuss is about.
- **Peek-A-Boo EPCU:** Doing more with more. EP hired a number of agents last year and this facilitated the establishment of the new Employee Plans Compliance Unit (EPCU). Using a "soft contact" approach, EPCU allows us to better follow-up on funding deficiencies, voluntary compliance statements, prohibited transactions and more. EPCU helps resolve issues without full-blown plan audits, thus lessening the burden on taxpayers and helping EP use its resources more efficiently. Read the article in the [February 9 Special Edition](#) for more info on EPCU. •

Employee Plans Published Guidance (January 2006 – March 2006)

Regulations

T.D. 9237, 71 Fed. Reg. 6	Final regulations on Roth 401(k) accounts.
REG-146459-05, 71 Fed. Reg. 4320	Proposed regulations on designated Roth accounts.

Revenue Procedures

Rev. Proc. 2006-4	The basic EP and EO letter ruling procedure.
Rev. Proc. 2006-5	The basic EP and EO technical advice procedure.
Rev. Proc. 2006-6	The basic EP and EO determination letter procedure.
Rev. Proc. 2006-8	The basic EP and EO user fee procedure.
Rev. Proc. 2006-13	Provides safe harbors in determining the fair market value for certain conversions of an annuity from a traditional IRA to a Roth IRA.

CONTACTING EMPLOYEE PLANS

The *Employee Plans News* welcomes your comments about this issue and/or your suggestions for future articles.

Send comments/suggestions to:

EP Customer Education & Outreach
SE:T:EP:CEO
1111 Constitution Avenue, N.W., PE-4C3
Washington, D.C. 20224

or FAX (202) 283-9525

or E-Mail: RetirementPlanComments@irs.gov

For **EP Taxpayer Assistance:**

For retirement plans technical and procedural questions:

Please call (877) 829-5500

Or visit the EP Customer Account Services section at www.irs.gov/ep.

For questions relating to retirement income, IRAs, Roth IRAs, educational IRAs, medical savings accounts and section 125 cafeteria plans:

Please call (800) 829-1040

For further **Employee Plans Information:** Go to www.irs.gov/ep.

Web Spins – The Retirement Plans Site

We're back: **Web Spins** – the column that takes you for a quick spin around the [Retirement Plans Community web page](#). This edition's column takes a sampling from the gi-normous amount of retirement plan topics.

- **Lean, Clean, Friendly Machine** – The Plan Sponsor/Employer section of the [Retirement Plans Community web page](#) is sporting a cleaner look. Over time, this section had grown unwieldy with more than two dozen topics – some of them redundant. So we performed a little nip/tuck work and the result, we think, is a visually more appealing and viewer-friendly approach to helping the important customer group navigate the retirement plan river. For example, some of the revised topics include “What Retirement Plans are Available?” “Retirement Plan FAQs, FYIs, Tips and Tools,” and “Questions: Where to get Answers.” Give it a spin and let us know what you think.
- **Ah, What a Relief** – As we told you in the article on page 10, EP is now offering relief to SIMPLE IRA plan sponsors who didn't update their plan for EGTRRA provisions. On our landing page, we have a link to all sorts of information about this exciting new initiative including links to the letters that EP is sending out to SIMPLE IRA plan sponsors and pension/IRA departments, background material and FAQs.
- **Back by Popular Demand** – When y'all ask, we do our darnedest to deliver. Back in the [Winter 2006 Edition](#), we had a story on a new 401(k) Resource Guide and plenty of folks were interested in seeing what goodies were in it. After awhile, we moved the link to the Guide off of our landing page. Lots of y'all asked for it to go back to the landing page. So...we decided you were right and put it front and center (well, actually it's more toward the lower-right side) on the [landing page](#). •

Timing remains Everything

In our last edition, we told you about a new retirement plan tool for employees: "Timing is Everything."

Timing is a one-page flyer designed for employers to share with their employees and provides plain-language, bullet-point information about retirement. Each flyer is part of the [Retirement News for Employers](#) electronic newsletter designed for the small business owner.

Employers can print the "Timing is Everything" flyer and include it in their employees' pay envelopes or post it on a bulletin board – and the flyer looks good whether it's printed in color or in black & white. Employers can even use the flyer in company e-mails or newsletters.

Each *Timing* flyer will have important tips for employees on retirement issues. So far, we've had information on contribution limits for different plans in 2006 and info on how much and when to contribute (so that you might still get a deduction for the 2005 tax year) to an IRA.

We're building an online archive of linkable *Timing* flyers where viewers can click on linked items in each flyer and find additional info. You'll find the archive in both the "Plan Sponsor/Employer" and "Plan Participant/Employee" sections of the [Retirement Plans Community web page](#).•

Standing by Now!

Available for your – or your clients' – pleasure: the other member of the *Employee Plans News* family of newsletters, the *Retirement News for Employers*.

The *Retirement News for Employers* is filled with retirement plan news and articles designed primarily for many of your clients: members of the small business community. Subscribership to the *RNE* continues to grow. So act now, don't delay: join the thousands of satisfied subscribers who have signed up for the most exciting thing to hit the internet since free spam blockers.

The [February 2006 Edition](#) featured stories on such topics as:

- "Good for You...And good for your employees, too" featuring a bonus comic strip;
- The *SEP Retirement Plans for Small Businesses* Publication profile;
- The Fix is In: Common Plan Mistakes – Excess Deferrals; and
- Much more.

It's easy to subscribe: Just go to the [Retirement Plans Community web page](#), select "Newsletters," and click on "Retirement News for Employers." Do it now before all subscriptions are gone!

Editor's Note: We'll always have room on the subscription list for you - the prior sentence was just hyperbole on the part of our copy boy.•

Northeast Area Benefits Conference

Select your date and location! EP, in association with the Northeast Area's Pension Liaison Group and ASPPA, announces the scheduling of this year's Northeast Area Benefits Conference.

With new locations this year, the conference will be held on June 7, 2006 at the Marriott Westchester in Tarrytown, NY and on June 8, 2006 at the Colonnade Boston in Boston, MA. These two sites provide pension professionals from New York and New England the opportunity to attend a conveniently located conference.

The conference educates attendees about current regulatory, legislative, and administrative topics. It also provides participants an opportunity to discuss employee benefit issues with colleagues as well as local and national government employees from the IRS and DOL. Throughout the day you will have the opportunity to meet and discuss your issues with notable IRS employees such as Carol Gold, Director, Employee Plans; James Holland, Jr., Manager, EP Technical; Stephen Tachney, Senior Technical Reviewer, Office of Division Counsel/Associate Chief Counsel (TE/GE); Martin Pippins, Manager, EP Technical Guidance and Quality Assurance; Bob Henn, EP Area Manager Northeast; Donald Kieffer, Manager, EP Determinations Northeast; and Janet Mak, Manager, Voluntary Compliance Northeast/Mid-Atlantic. Kristen Zarenko, a Pension Law Specialist from DOL's EBSA Office of Regulations and Interpretations, will also speak.

This year's agenda includes panel discussions on the latest Washington Updates, DOL and Title I Issues, Final 401(k) "Wonderama," Current IRS Projects and Enforcement Initiatives, and comprehensive breakout sessions on DC Plan Designs, DB Funding Issues, IRS Corrections Programs, Domestic Partner/Same-Sex Marriage Issues in Qualified Plans and The New World of Nonqualified Deferred Compensation Arrangements Under IRC 409A.

For more information and to pre-register for the Northeast Area Benefits Conference, contact the ASPPA Meetings Department at (703) 516-9300 or visit the [ASPPA web site](#).•

2006 Great Lakes Benefits Conference

Mark your calendars for May 15-16, 2006, so you won't miss the annual Great Lakes Benefits Conference in Chicago.

Good News: By popular demand, this year's conference is returning to the Fairmont Hotel, conveniently located in the heart of downtown Chicago. EP is again partnering with ASPPA and more than 20 cooperating sponsors to hold the annual Great Lakes Benefits Conference.

The conference is an opportunity to meet and discuss employee benefit issues with private practitioners and government agency representatives. The program focuses on exchanging information, advancing knowledge, and fostering sound principles, procedures and practices.

The 2006 Great Lakes Benefits Conference will provide the latest benefits information, networking opportunities, Continuing Education Credit, key government agency representatives and more.

General Sessions include:

- Washington Legislative and Regulatory Update with Martin Pippins, Manager, EP Technical Guidance and Quality Assurance; Marjorie Hoffman, Office of Chief Counsel, TE/GE, and Brian Graff, ASPPA.
- Update on DOL Investigations with Virginia Smith, Director, Office Of Enforcement, DOL/EBSA and Steve Haugen, Deputy Regional Director, Chicago Regional Office, DOL/EBSA.
- EP Examinations Program Update with Michael Julianelle, Director, EP Examinations.
- Circular 230 and the ERPA Proposal with Monika Templeman, EP Area Manager, Great Lakes, and S. Derrin Watson of SunGard Corbel.
- EPCRS with Joseph Grant, Director, EP Rulings and Agreements, and Professor Kathryn Kennedy, John Marshall Law School.

Scheduled Breakout Sessions include:

- Final 409A Regulations;
- Roth 401(k) Plans – The First Year;
- 403(b) News; and
- The Determination Letter Process and the Remedial Amendment Period.

For more information, contact the ASPPA Meetings Department at (703) 516-9300 or visit the [ASPPA web site](#).

Mid-Atlantic Benefits Conference

The 2006 Mid-Atlantic Benefits Conference will be held on May 8-9, 2006 at the Marriott Philadelphia Downtown in Philadelphia, PA. This annual conference is jointly sponsored by EP and ASPPA. The conference attendees are pension practitioners including actuaries, CPAs, enrolled agents and attorneys from private industry, public practice and the federal government.

The conference will feature panel discussions with public and private-sector participants. It also will provide a unique opportunity for attendees to meet and discuss common areas of interest with government representatives. Using an interactive panel format, discussions will focus on issues that are important to attendees. Also planned is a special pre-conference panel discussion/Q & A session on Sunday evening, May 7.

The conference will feature discussions on:

- Current legislative and regulatory changes;
- Department of Labor issues and updates;
- Bankruptcy and employee plans;
- 409A executive compensation package;
- Circular 230 and client relationships;
- IRS audits;
- Correction options and case studies;
- EPTA and determination letter updates; and
- Roth 401(k) and automatic enrollment.

IRS employees contributing to this edition of the *Employee Plans News* are:

Mike Daly,
Doug Jordan,
Michael Julianelle,
Teresita Laureano,
Betty McClernan,
Peter McConkey,
Steve Miller,
Todd Newman,
Greg Nix,
Mark O'Donnell,
Nancy Payne,
Sharon Polo,
Wiley Ransom,
Mike Rubin,
Bonnie Schaumburg,
John Schmidt,
Brenda Smith-Custer,
and
Mikio Thomas

Mid-Atlantic Benefits Conference *continued from page 13*

Interactive Tables will be offered again this year to provide an opportunity for the attendees to meet informally for one-on-one discussion with EP specialists in the areas of Closing Agreement Program/Voluntary Correction, Examinations, 401(k), Abusive Tax Transactions/ESOPs, EP Customer Education & Outreach, 403(b)/457 plans, and EPTA/Multiemployer. The Department of Labor will also staff an Interactive Table.

The conference is an essential learning and interactive experience for serious pension practitioners. EP and ASPPA invite pension practitioners to join them at this conference. For further information on how to register, contact the ASPPA Meetings Department at (703) 516-9300 or visit the [ASPPA web site](#).

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2006 Cincinnati Employee Benefits Conference

The 19th Annual Cincinnati Employee Benefits Conference will be held Thursday, June 15 and Friday, June 16, 2006 at Paul Brown Stadium, Downtown Cincinnati.

The presenting organizations will be the IRS, DOL and the Cincinnati Bar Association Employee Benefits Committee. Cooperating organizations for the event are ASPPA, Louisville Benefits Conference, and the Midwest Benefits Conference.

This conference provides pension professionals with an excellent opportunity to meet and discuss employee benefit issues with private practitioners and key government agency representatives. Attendees can earn continuing professional education credits.

The conference agenda includes general sessions of broad interest (featuring prominent government and private-sector speakers, including Sal Tripodi speaking about Qualified Retirement Plan Issues), a variety of useful breakout sessions and keynote luncheon speakers.

There will be an IRS Booth that will provide an opportunity for the attendees to ask questions of EP specialists. There will be specialists available with specific knowledge in the areas of EPCRS, Volume Submitter Plans, Technical Screening, EP Examinations, EP Customer Education and Outreach, and Customer Service. DOL will also be represented and there will be vendors as well.

For more information contact the CLE Department, Cincinnati Bar Association at (513) 381-8213.

2006 Los Angeles Benefits Conference

The IRS, in association with ASPPA, National Institute of Pension Administrators, and Western Pension & Benefits Conference presented the 2006 Los Angeles Benefits Conference on January 26–27 at the Hilton Los Angeles/Universal City.

On January 25, a pre-conference was held that provided an opportunity for practitioners to converse with IRS and DOL employees regarding current issues. Conference speakers included practitioners along with DOL, IRS and Treasury Department officials.

Topics at this year's conference included:

- Washington Update;
- EP Examinations and Enforcement Activities;
- Plans for Non-Profit/Governmental Entities;
- EPCRS;
- 401(k) Plans; and
- DOL Regulatory/Fiduciary Issues.



Joseph Grant (center), Director, EP Rulings & Agreements and Michael Julianelle (right), Director, EP Examinations at the 2006 Los Angeles Benefits Conference.

Los Angeles Benefits Conference *continued from page 14*

Luncheon speakers were Carol Gold, Director of EP, and Bradley Belt, Executive Director, PBGC.

EP "Interactive Tables" for the IRS speakers were featured at the conference and attendees had the opportunity to have one-on-one discussions with the top EP officials.

For more information regarding future conferences, visit the [ASPPA web site](http://www.asppa.org) or phone them at (703) 516-9300.

Calendar of EP Benefits Conferences

UPCOMING EVENTS...

Name	Date(s)	Location	Co-Sponsor(s)	For Further Information, Please Contact
Mid-Atlantic Benefits Conference	05/08/06-05/09/06	Philadelphia, PA	ASPPA	www.asppa.org
Great Lakes Benefits Conference	05/15/06-05/16/06	Chicago, IL	ASPPA & cooperating sponsors	www.asppa.org
Northeast Area Benefits Conference (2 Locations)	06/07/06-06/08/06	Tarrytown, NY & Boston, MA	ASPPA & NE Area Pension Liaison Group	www.asppa.org
19th Annual Cincinnati Employee Benefits Conference	06/15/06-06/16/06	Cincinnati, OH	Cincinnati Bar Association	CBA (513) 381-8213

RECENT EVENTS...

Name	Date(s)	Location	Co-Sponsor(s)	For Information, See
Benefits Conference of the South	03/20/06-03/21/06	Atlanta, GA	ASPPA	<i>EP Benefits Conferences Calendar at</i> www.irs.gov/ep
Los Angeles Benefits Conference	01/26/06-01/27/06	Los Angeles, CA	ASPPA, NIPA, WPBC & cooperating sponsors	
16th Annual SWBA/IRS Employee Benefits Conference	10/24/05-10/25/05	Dallas, TX	Southwest Benefits Association (SWBA)	
Central & Mountain Sts. Benefits Conference	09/12/05-09/13/05	Denver, CO	ASPPA and WPBC	

